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Application No. 09/864,998
Amendment dated January 21, 2004
Reply to Office Action of August 21, 2003

Docket No. 0739-0129P
Art Unit: 3636
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REMARKS

The Applicant thanks the Examiner for the thorough consideration given the present application. Claims 26-33, and 47-60 are pending. Claims 34-46 are canceled without prejudice to or disclaimer of the subject matter contained therein. Claims 47-60 are added. Claim 47 is independent. The Examiner is respectfully requested to reconsider the rejections in view of the amendments and remarks set forth herein.

Reasons for Entry of Amendments

At the outset, it is respectfully requested that this Amendment be entered into the Official File in view of the fact that the amendments to the claims automatically place the application in condition for allowance.

In the alternative, if the Examiner does not agree that this application is in condition for allowance, it is respectfully requested that this Amendment be entered for the purpose of appeal. This Amendment reduces the issues on appeal by placing the claims in compliance with 35 U.S.C. § 112, second paragraph. This Amendment was not presented at an earlier date in view of the fact that Applicant did not fully appreciate the Examiner's position until the Final Office Action was reviewed.

Rejection Under 35 U.S.C. §112, second paragraph

Claims 34-46 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite. This rejection is respectfully traversed.

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The Examiner has set forth certain instances wherein the claim language in claims 34 and 46 is vague.

In order to overcome this rejection, the Applicant has canceled claims 34-46, and has presented claims 47-60, thereby correcting each of the deficiencies specifically pointed out by the Examiner. The Applicant respectfully submit that new claims 47-60, particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejections Under 35 U.S.C. §102(b) and §103(a)

Claims 34, 36, and 38 stand rejected under 35 U.S.C. §102(b) as being anticipated by Smith (U.S. 2,808,514);

claims 35, 37, and 39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Smith;

claim 40 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Smith '514 in view of Baus et al (U.S. 6,021,535);

claim 41-46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Smith '514 in view of Ugalde (U.S. 5,577,806).

These rejections are respectfully traversed.

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, independent claim 47 recites a combination of elements directed to a furniture element including a back portion comprising a pair of back panels connected with each other at a predetermined angle along a center line, by the seat portion comprising a pair of

seat panels connected with each other at said predetermined angle along a center line, and by the back portion and the seat portion being connected with each other at a right angle along a base line.

Support for a back portion 10a comprising a pair of back panels 11, 11a connected with each other at a predetermined angle 15a along a center line 22, by the seat portion 10b comprising a pair of seat panels 12, 12a connected with each other at said predetermined angle 15a along a center line, and by the back portion 10a and the seat portion 10b being connected with each other a right angle 15 along a base line 23, 23a, can be seen in FIGS 1 and 4.

As set forth on page 1 of the specification, the present invention, with the claimed right angle, provides a seat element which ensures constant pressure on uniformly expanding bodies, and thus offers the most favorable conditions possible for regulating the tonus of the human organism.

The Applicant respectfully submits that the combination of elements as set forth in independent claim 47 is not disclosed or made obvious by the prior art of record, including Smith, Baus et al. and Ugalde.

For example, the Applicant respectfully submits that Smith fails to teach or suggest the back portion and the seat portion being connected with each other a right angle along a base line, as set forth in independent claim 47. Moreover, neither Baus et al. nor Ugalde can make up for the deficiencies of Smith.

Applicant respectfully submits that the combination of elements as set forth in independent claim 47 is not disclosed or made obvious by the prior art of record, including Smith, Baus et al. and Ugalde, for the reasons explained above.

Therefore, independent claim 47 is in condition for allowance. Further, dependent claims 48-60 are in condition for allowance due to their dependency from allowable independent claims, as well as for the additional novel limitations set forth therein.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §102(b) and §103(a) are respectfully requested.

CONCLUSION

Since the remaining patents cited by the Examiner have not been utilized to reject claims, but merely to show the state of the art, no comment need be made with respect thereto.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 205-8000.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant respectfully petitions for a two (2) month extension of time for filing a response in connection with the present application and the required fee of \$210 is being filed concurrently herewith.

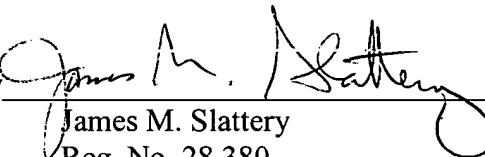
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
James M. Slattery
Reg. No. 28,380
P. O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

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JMS:CTT/ags